

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

|                                    |   |                          |
|------------------------------------|---|--------------------------|
| JEAN GAULDEN,                      | ) |                          |
|                                    | ) |                          |
| Plaintiff,                         | ) |                          |
|                                    | ) |                          |
| vs.                                | ) | Case No. 4:07CV01637 ERW |
|                                    | ) |                          |
| CITY OF DESLOGE, MISSOURI, et al., | ) |                          |
|                                    | ) |                          |
| Defendants.                        | ) |                          |

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiff's Motion to Compel and for Sanctions [doc. #26] and Plaintiff's Motion to Set Aside and Vacate Order of Mediation [doc. #30]. A hearing was held on October 20, 2008, and the Court heard arguments from both parties on the pending Motions.

Plaintiff requested that the Court enter an order striking the pleadings of Defendants and rendering a judgment by default in favor of Plaintiff or, in the alternative, enter an order compelling Defendants to answer all of Plaintiff's First Set of Interrogatories without objection and produce all documents requested in Plaintiff's First Request for Production of Documents. Plaintiff asserts that the responses that were filed were inadequate in that the documents did not contain the declarant's signature, there were several omissions, and there were numerous baseless objections.

Fed. R. Civ. P. 26(b)(1) provides that the parties to an action "may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). The Court finds that Defendants' answers and objections to Plaintiff's discovery requests fail to comply with this rule. Thus, the Court compels Defendants to properly respond to

Plaintiff's interrogatories and requests for production of documents no later than **November 4, 2008**. Because the response deadline has been extended, the discovery deadline is extended for a period of sixty (60) days. All discovery shall be completed no later than **December 16, 2008**.

The Court also finds that an award of expenses and attorney's fees is appropriate in this instance. Plaintiff's discovery requests were served on Defendants over three months ago. Defendants asked for an extension of time, which was granted, but still failed to adequately respond to the requests. Plaintiff's counsel contacted Defendants' counsel about the inadequacies but no corrections were made. In filing and arguing this Motion, Plaintiff's counsel has incurred attorney's fees and expenses totaling \$1,025.00. The Court finds these expenses to be reasonable and awards Plaintiff \$1,025.00, payable by Defendants within forty-five (45) days of the date of this Order.

Finally, Plaintiff has asked the Court to set aside its previous order referring the case to alternative dispute resolution. Because of the discovery issues that have arisen in this case, the Court agrees that mediation is not likely to be successful at this point in time. The Court is of the opinion, however, that mediation will be useful in this case in the future. Thus, the alternative dispute resolution deadline of December 5, 2008 is vacated. This matter shall be referred to Alternative Dispute Resolution on **January 7, 2009**, and that reference shall terminate on **March 7, 2009**.

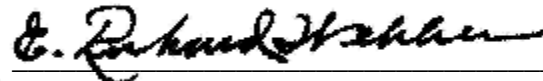
Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Compel and for Sanctions is **GRANTED, in part**, and **DENIED, in part**. Defendants shall properly respond to Plaintiff's First Set of Interrogatories and Plaintiff's First Request for Production of Documents no later than **November 4, 2008**. Plaintiff is awarded attorney's fees and expenses in the amount of \$1,025.00, payable by Defendants no later than **December 4, 2008**.

**IT IS FURTHER ORDERED** that Plaintiff's Motion to Set Aside and Vacate Order of Mediation is sustained. This matter will be referred to alternative dispute resolution on **January 7, 2009**, and that reference shall terminate on **March 7, 2009**.

**IT IS FURTHER ORDERED** that an Amended Case Management Order shall issue forthwith.

Dated this 21st Day of October, 2008.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written over a horizontal line.

E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE